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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DODLEY, CLERK
BY: 
DEPUTY CLERK

TERRANCE ROBERT HENDERSON,)	CASE NO. 7:19CV00421
)	
Plaintiff,)	
v.)	MEMORANDUM OPINION
)	
MAJOR ANDERSON, <u>ET AL.</u> ,)	By: Hon. Glen E. Conrad
)	Senior United States District Judge
Defendants.)	

Plaintiff Terrance Robert Henderson, a Virginia inmate proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. The defendants have filed a motion to dismiss. On September 6, 2019, the court mailed a notice advising Mr. Henderson that the court would give him 21 days to submit any further counter-affidavits or other relevant evidence contradicting, explaining or avoiding the defendants' evidence before ruling on the motion to dismiss. The notice warned Mr. Henderson:

If Plaintiff does not respond to Defendant[s'] pleading[], the Court will assume that Plaintiff has lost interest in the case, and/or that Plaintiff agrees with what the Defendant[s] state[] in their responsive pleading[]. If Plaintiff wishes to continue with the case, it is necessary that Plaintiff respond in an appropriate fashion. Plaintiff may wish to respond with counter-affidavits or other additional evidence as outlined above. However, if Plaintiff does not file some response within the twenty-one (21) day period, the Court may dismiss the case for failure to prosecute.

Notice, ECF No. 13 (emphasis in original.) Mr. Henderson filed a motion for an extension of time to respond to the defendants' motion, and the court granted him until October 25, 2019, to respond. Since issuing that order, the court has received no further communication from Mr. Henderson about this case, and the deadline for his response to the defendants' motion has passed. Accordingly, the court concludes that, pursuant to Rule 41(b) of the Federal Rules of

Civil Procedure, Mr. Henderson has failed to prosecute this action. See gen. Ballard v. Carlson, 882 F.2d 93 (4th Cir. 1989).

Having duly notified the parties that Mr. Henderson's failure to respond to the defendants' dispositive motion would be interpreted as failure to prosecute and would be cause for dismissal of the action without prejudice, the court will dismiss the case accordingly. A separate order will enter this day.

Mr. Henderson is advised that if he intends to proceed with this action, he must petition the court within 30 of the entry of this order for a reinstatement of this action. Any motion for reinstatement should provide a specific explanation for Mr. Henderson's failure to respond in a timely fashion to the defendants' dispositive motion.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to Mr. Henderson and to counsel of record for the defendants.

ENTER: This 8th day of November, 2019.



Senior United States District Judge